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AEC 125/18

April 15, 1955

COPY NO. 18

ATOMIC ENERGY COMMISSION

USE AND OCCUPANCY AGREEMENT FOR
LANDS IN TRUST TERRITORY OF THE PACIFIC

Note by the Secretary

1. The attached letter from the Secretary of the Navy, with enclosure, is circulated for the information of the Commission.
2. The attachment has been referred to the Division of Military Application for appropriate action.

W. B. McCool

Secretary

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DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

April 6, 1955

My dear Mr. Strauss:

In my letter dated August 17, 1954*, I advised you that the Chief of Naval Operations had been requested to continue negotiations with representatives of the Department of the Interior to acquire under a use and occupancy agreement certain lands in the Trust Territory of the Pacific Islands for retention by the military. I further advised you that prior to execution of the use and occupancy agreement, which will include the Bikini and Eniwetok Atolls, I would forward the final draft to you for approval.

Representatives from the Department of State, Department of the Interior, Department of the Navy, Atomic Energy Commission, and Joint Task Force 7 met and have reviewed the attached draft of the land agreement. This draft reflects the thinking of the Departments and agencies concerned.

Upon receipt of your approval, the land agreement will be referred to the Secretary of the Interior for signature.

Sincerely yours,

/s/

C. S. Thomas

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Honorable Lewis L. Strauss
Chairman, Atomic Energy Commission
Washington 25, D. C.

Encl:

- (1) Draft of Land Agreement Trust Territory
of the Pacific Islands

*Secretariat Note: Copy on file in the Division of Military Application.

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Land Agreement Trust Territory of the Pacific Islands

This agreement entered into this day of
1955, by and between the Secretary of the Interior and the Secretary
of the Navy.

WITNESSETH:

WHEREAS, ARTICLE 1, Section C, paragraph 4 (c) of the Agreement
Between the Department of the Navy and the Department of
the Interior with Respect to the Transfer of Responsibility
of the Administration of the Government of the Trust
Territory of the Pacific Islands provides for the retention
by the Armed Forces of certain land facilities in the Trust
Territory for military use and control; and

WHEREAS paragraph 4(e) provides for negotiations concerning the
utilization of such land and facilities and for compensation
therefor;

Now therefore, the parties hereto, having negotiated, agree as
follows:

1. (a) As used in this Agreement, the terms "using" Department
or agency or "cognizant" Department or agency shall mean the
Department of the Army, the Department of the Navy, the Department
of the Air Force, the Coast Guard, or the Atomic Energy Commission,
as the case may be, both of which latter agencies have authorized
the Department of the Navy to act on their behalf.

(b) The term "land parcel" shall mean an assembled tract of
land.

(c) The term "Trust Territory" shall mean that portion of the
Trust Territory of the Pacific Islands under the administrative
responsibility of the Department of the Interior or the Department
of the Navy.

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2. Lands designated under Chapter I, Section C, paragraph 4(c) of the Interdepartmental Transfer Agreement shall be made available under a use and occupancy agreement, hereinafter referred to as the agreement, for such period of time as the Federal Government may have a continuing requirement in such lands for the purposes contemplated by the Trusteeship Agreement. For the purposes of this paragraph, Chapter I, Section C, subparagraph 4(o) is hereby amended so as to embrace therein such changes in the present land requirements of the Federal Government as are reflected in correspondence between the Department of the Navy and the High Commissioner of the Trust Territory, and the Department of the Interior, from 22 May 1951 up to and including the date of this agreement.

3. For each land parcel described in paragraph 2 hereof there shall be an individual agreement which shall be negotiated by the Commander in Chief Pacific Fleet and by the High Commissioner of the Trust Territory of the Pacific Islands, but which shall not be effective until approved by the Secretary of the Navy and the Secretary of the Interior or their designated representatives. In the case of land which is not owned by the Government of the Trust Territory, such Government shall act for and represent the owner thereof in the conduct of negotiations. Each agreement shall provide for review, at intervals not exceeding five years, by the using agency of the Government or by the Department of the Navy as the representative thereof, as the case may be, on the one hand, and by the Department of the Interior on the other, of the Federal Government's need for the land parcel concerned and for right of appeal to the President if there should be disagreement regarding such need.

4. Where, by reason of a determination by the using Department or agency, or where, by reason of a decision by the President, in the

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event of non-agreement between such Department or agency and the Department of the Interior, it is found that no Federal need for a particular land parcel exists, the agreement pertinent thereto shall be terminated, and upon such termination, the land and all interests therein shall revert to the Government of the Trust Territory.

5. A lump sum payment shall be made as may be required by the using agency to the High Commissioner of the Trust Territory (Marshalls and Carolines) or Commander in Chief U. S. Pacific Fleet (Saipan District less Rota) for each land parcel covered by agreement. This lump sum shall be in lieu of any and all claims arising out of the use or occupancy of such parcel. The initial date of such use or occupancy shall be deemed to have commenced on the date the island on which the particular parcel is situated was declared "secure," unless such use or occupancy in fact occurred subsequent thereto, in which latter case the initial date shall be determined by occupancy. The lump sum payment shall consist either (a) of the negotiated fair use value of the land from the date of occupation through the period of the agreement or (b) of such sum established by the courts of the Trust Territory as a result of such judicial proceedings as may be appropriate.

6. All agreements pertaining to the land described in paragraph 2 hereof shall be between the administering Departments of the Trust Territory of the Pacific Islands as defined in Executive Order 10408, amended by Executive Order 10470, acting either on its own behalf or for the owner of such land, on the one hand, and the using agency or the Department of the Navy as the representative thereof, as the case may be, on the other.

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7. It is understood and agreed that the lands described in paragraph 2 hereof, shall, when not actively used by cognizant

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Federal agencies, be made available to the Government of the Trust Territory on a revocable permit basis for the use and benefit of the people of the Trust Territory. Such permit shall be on a nonreimbursable basis when it does not result in any expense to the cognizant agency. Unless specifically provided, if such lands encompass existing facilities and improvements, all such permits shall provide (a) that the permittee shall adequately maintain or safeguard such facilities or improvements against destruction, impairment, and loss, other than that caused by reasonable wear and tear or damage by elements; (b) that no such facilities or improvements shall be removed or physically altered without prior approval of the cognizant agency; (c) that the issuance of such permit shall entail no obligation on the cognizant agency to maintain existing facilities in an operable condition; (d) that the cognizant agency shall not be responsible for any damage or injury arising out of any use made by the owner, by the Government of the Trust Territory, or by the people of the Trust Territory of such lands, facilities or improvements; (e) that no permanent native dwellings or native settlements shall be established on such lands without prior approval of the cognizant agency and of the Commander in Chief of the Pacific Fleet or his designated representative; (f) that such permit shall be revocable upon written notice by the cognizant agency to the owner or to the Government of the Trust Territory, if the cognizant agency shall determine that the permitted use of the land, improvements, or facilities is not compatible with the present or immediate future use thereof by such agency or that such use constitutes a hazard to public safety and security.

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8. If the use of land and facilities covered by this agreement is essential to the continued conduct of the Trust Territory Government, the agreement or agreements shall provide for such use, and

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if agreement thereon cannot be reached by and between the High Commissioner of the Trust Territory and the Commander in Chief of the Pacific Fleet, the question shall be referred for settlement in the manner described in paragraph 3 hereof.

IN WITNESS WHEREOF, the Parties hereto have caused this agreement to be signed and sealed as of the day, month, and year cited above.

Secretary of the Navy

Secretary of the Interior

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